

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION, CINCINNATI**

JOSE MARIA DECASTRO,	:	CASE NO. 1:22-cv-00204
	:	
Plaintiff,	:	Judge Michael R. Barrett
	:	Magistrate Judge Stephanie K. Bowman
v.	:	
	:	DEFENDANTS PAM WAGNER, BRAD
PAM WAGNER, ET AL.,	:	SPOLJARIC, CHANCE BLANKENSHIP,
	:	EVAN MCNIGHT, ROBERT FOUCH,
Defendant.	:	AND THE CITY OF IRLINGTON, OHIO’S
	:	ANSWER TO PLAINTIFF’S
	:	COMPLAINT

JURY DEMAND ENDORSED HEREON

Now come Defendants Pam Wagner, Brad Spoljaric, Chance Blankenship, Evan McNight, Robert Fouch, and the City of Irlington, Ohio (“the Irlington Defendants”), and for their Answer to Plaintiff’s Complaint state as follows:

I. INTRODUCTION AND OPENING STATEMENT

1. Answering Paragraph 1, the Irlington Defendants admit that Plaintiff has brought the subject lawsuit against the Irlington Defendants and the other defendants named therein. The Irlington Defendants deny the remaining allegations as written.
2. Answering Paragraph 2, the Irlington Defendants deny the allegations as written.
3. Answering Paragraph 3, the Irlington Defendants admit that Plaintiff was inside the Irlington City Center on March 31, 2022. The Irlington Defendants are without sufficient knowledge and information to form a belief as to the truth of the remaining allegations contained therein, and therefore deny the same.
4. Answering Paragraph 4, the Irlington Defendants deny the allegations as written.
5. Answering Paragraph 5, the Irlington Defendants deny the allegations as written.

6. Answering Paragraph 6, the Ironton Defendants specifically deny that any Ironton Police Officer told Plaintiff that if he refused to provide his Social Security number, additional charges and punishment would be brought upon him. The Ironton Defendants are without sufficient knowledge and information to form a belief as to the remaining allegations therein, and therefore deny the same.
7. Answering Paragraph 7, the Ironton Defendants specifically deny the allegations contained therein.

II. JURISDICTION AND VENUE

8. Answering Paragraphs 8 and 9, the Ironton Defendants deny any constitutional violations, and therefore deny the allegations contained therein.

III. PARTIES

A. Plaintiff

9. Answering Paragraph 10, the Ironton Defendants specifically deny the allegations contained therein.

B. Defendants

10. Answering Paragraph 11, the Ironton Defendants admit that Pam Wagner is the Chief of Police for the City of Ironton. The Ironton Defendants deny the remaining allegations as written.
11. Answering Paragraphs 12, 13, 14, and 15, the Ironton Defendants admit that Chance Blankenship, Evan McNight, and Robert Fouch are law enforcement officers for the City of Ironton Police Department. The Ironton Defendants deny the remaining allegations as written.
12. Answering Paragraph 16, the Ironton Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations contained therein, and therefore deny the same.

13. Answering Paragraph 17, the Ironton Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations contained therein, and therefore deny the same.
14. Answering Paragraph 18, the Ironton Defendants admit the City of Ironton, Ohio, is a political subdivision within the State of Ohio. The Ironton Defendants deny the remaining allegations as written.
15. Answering Paragraph 19, the Ironton Defendants admit that Lawrence County is a political subdivision within the State of Ohio. The Ironton Defendants deny the remaining allegations as written.

IV. GENERAL FACTUAL ALLEGATIONS

16. Answering Paragraph 20, the Ironton Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations contained therein, and therefore deny the same.
17. Answering Paragraph 21, the Ironton Defendants admit that on Tuesday, March 29, 2022, Plaintiff was present in the Ironton City Center. The Ironton Defendants deny the remaining allegations as written.
18. Answering Paragraph 22, the Ironton Defendants deny the allegations as written.
19. Answering Paragraphs 23 and 24, the Ironton Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations contained therein, and therefore deny the same.
20. Answering Paragraph 25, the Ironton Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations contained, and therefore deny the same.

21. Answering Paragraph 26, the Ironton Defendants deny the allegations as written.
22. Answering Paragraph 27, the Ironton Defendants specifically deny that Plaintiff has been denied the return of his iPhone 12 Max Pro. The Ironton Defendants are without sufficient knowledge and information to form a belief as to the truth of the remaining allegations contained therein, and therefore deny the same.
23. Answering Paragraphs 28 and 29, the Ironton Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations contained therein, and therefore deny the same.

V. CAUSES OF ACTION

CAUSE 1

24. Answering Paragraph 30, the Ironton Defendants incorporate the foregoing admissions and denials by reference herein.
25. Answering Paragraph 31, the Ironton Defendants specifically deny that they failed to comply with any state and/or federal law. The Ironton Defendants deny the remaining allegations as written.
26. Answering Paragraph 32, the Ironton Defendants specifically deny the allegations contained therein.

CAUSE 2

27. Answering Paragraph 33, the Ironton Defendants incorporate the foregoing admissions and denials by reference herein.
28. Answering Paragraphs 34 and 35, the Ironton Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations therein, and therefore deny the same.

CAUSE 3

29. Answering Paragraph 36, the Ironton Defendants incorporate the foregoing admissions and denials by reference herein.
30. Answering Paragraph 37, the Ironton Defendants deny the allegations as written.
31. Answering Paragraph 38, the Ironton Defendants specifically deny the allegations contained therein.
32. Answering Paragraph 39, the Ironton Defendants specifically deny the allegations contained therein.

CAUSE 4

33. Answering Paragraph 40, the Ironton Defendants incorporate the foregoing admissions and denials by reference herein.
34. Answering Paragraph 41, the Ironton Defendants deny the allegations as written.
35. Answering Paragraph 42, the Ironton Defendants specifically deny the allegations contained therein.

CAUSE 5

36. Answering Paragraph 43, the Ironton Defendants incorporate the foregoing admissions and denials by reference herein.
37. Answering Paragraphs 44 and 45, the Ironton Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations contained therein, and therefore deny the same.

CAUSE 6

38. Answering Paragraph 46, the Ironton Defendants incorporate the foregoing admissions and denials by reference herein.

39. Answering Paragraphs 47 and 48, the Ironton Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations contained therein, and therefore deny the same.

CAUSE 7

40. Answering Paragraph 49, the Ironton Defendants incorporate the foregoing admissions and denials by reference herein.

41. Answering Paragraphs 50, 51, and 52, the Ironton Defendants specifically deny the allegations contained therein to the extent they pertain to the Ironton Defendants. The Ironton Defendants are without sufficient knowledge and information as to the truth of the remaining allegations therein, and therefore deny the same.

42. The Ironton Defendants deny any and all allegations not otherwise specifically admitted or denied herein.

AFFIRMATIVE DEFENSES

1. Plaintiff fails to state a claim upon which relief can be granted.
2. Plaintiff's claims may be barred by the *Heck v. Humphrey* doctrine. *See Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994).
3. Plaintiff's claims may be barred by the doctrines of estoppel, issue preclusion, claim preclusion, res judicata, laches, unclean hands, waiver and/or the statute of limitations.
4. The Ironton Defendants state that there may have been an insufficiency of process and an insufficiency of service of process on the Ironton Defendants.
5. Plaintiff has failed to mitigate damages, if any, that he may have suffered.

6. At all times the Ironton Defendants acted reasonably, lawfully and in good faith, and had reasonable grounds for believing that their conduct did not violate any federal or statutory provisions.
7. At all times the Ironton Defendants acted in accordance with the U.S. Constitution, the Ohio Constitution, all Ohio statutory provisions, and all state and local laws relative thereto.
8. The Ironton Defendants state that Plaintiff suffered no compensable damage as a result of any alleged actions of Defendants, which are specifically denied.
9. The Ironton Defendants do not maintain an unconstitutional custom, policy, or practice.
10. The Ironton Defendants are absolutely and or qualifiedly immune from suit under both federal and state law.
11. The Ironton Defendants state that at all times, they have acted reasonably, lawfully, in good faith, and without malice.
12. The Ironton Defendants state that if, in fact, they performed any wrongful acts, which are specifically denied, such acts were not performed intentionally, knowingly, purposely, willfully, wantonly, recklessly, maliciously, in bad faith, or with animus or ill-will.
13. All actions taken by the Ironton Defendants were in compliance with all laws, were privileged, and absolutely privileged.
14. The injuries and damages allegedly sustained by Plaintiff are the direct and proximate result of the conduct and actions of Plaintiff.
15. The injuries and damages allegedly sustained by Plaintiff are the direct and proximate result of the independent actions of Plaintiff or other third parties over whom the Ironton Defendants had no control.
16. Plaintiff has failed to mitigate his damages.

17. The Defendants state that any damages awarded in this matter may be subject to setoff.

18. Plaintiff's claim for punitive/exemplary damages is in violation of the Ohio and United States Constitutions, state, federal and the common law.

19. The Ironton Defendants give notice that they intend to assert and rely upon all affirmative defenses, immunities, avoidances, counterclaims, cross-claims, and third party claims that become available or apparent during the course of discovery or trial, and thereby reserve the right to amend their Answer to assert such defenses.

WHEREFORE, the Ironton Defendants request that this Honorable Court dismiss Plaintiff's Complaint with an Order that Defendants' attorney fees and costs be paid as provided under applicable law.

Respectfully submitted,

SURDYK, DOWD & TURNER CO., L.P.A.

/s/ Dawn M. Frick

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Trial Attorneys for Pam Wagner, Brad

Spoljaric, Chance Blankenship, Evan

McNight, Robert Fouch, and the City of

Ironton, Ohio

JURY DEMAND

Defendant hereby demands a trial by jury on those claims to which it is entitled.

/s/ Dawn M. Frick

Dawn M. Frick (0069068)

CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2022, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, a copy of which will automatically be forwarded to the parties or their counsel of record and I certify that I have mailed by United States Postal Service the document to the parties not participating in the electronic filing system:

Jose Maria DeCastro
1258 Franklin Street
Santa Monica, CA 90404

/s/ Dawn M. Frick
Dawn M. Frick (0069068)